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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/524,771

02/16/2005

Luigi Panzetti

2553-1008

3401

466

7590

10/31/2007

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EXAMINER

CHIMIAK, EMILY ANN

ART UNIT

PAPER NUMBER

1791

MAIL DATE

DELIVERY MODE

10/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/524,771

Applicant(s)

PANZETTI, LUIGI

Examiner

Emily Chimiak

Art Unit

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-9 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-4, drawn to a process.

Group II, claim(s) 5-9, drawn to a machine.

2. The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

- The limitation, “ movement of bottles or containers into formed tubular labels by a down movement of said bottles or containers into the sleeve” is common to the independent claims of both groups (see claim 1 lines 5-8 and the last two lines of claim 5) but is known in the art.
- The limitation “forming labels and inserting bottles or containers into formed tubular labels” is common to the independent claims of both groups (claim 1 lines 1-3 and claim 5 lines 1-2)

The common technical feature known in the art as shown by Ashcroft (US 3959065) in view of Hetherington et al. (US 4236305).

Ashcroft teaches a method of forming a heat shrinkable sleeve (tubular label) and then telescoping a heat-shrinkable sleeve S onto bottle B that is held on the neck by gripping overhead chucks. A push-up bar 30 and mandrel 29 provide the telescoping movement that causes the

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sleeve, (made of polyethylene in one embodiment) to be pushed onto the bottle from below (col. 1 line 58-col. 2 lines 7-12 and 67-68, col. 3 line 56-col. 4 line 32 and col. 5 lines 44-46).

It is unclear whether Ashcroft discloses an alternative embodiment wherein the bottle B is pushed downwardly towards the sleeve.

However, Hetherington et al. discloses press fitting an expandable ring (made of polyethylene in one embodiment) over a bottle by “relatively displacing the ring and bottle” through a ram means 19 (equated to the push-up bar and mandrel disclosed by Ashcroft). The bottle is from above by conical cap 20 (equated to overhead chucks disclosed by Ashcroft). See abstract, col. 2 lines 4-15 and 21-26, col. 3 lines 45-46, col. 5 lines 37-39). It is noted that one reading the phrase “relatively displacing” would appreciate that moving the bottle downward towards the sleeve is equivalent to moving the sleeve upward towards the bottle.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the machine disclosed by Ashcroft such that the bottle B is pushed down towards the sleeve S because Hetherington et al. teaches that it is an equivalent alternative.

3. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

4. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the

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inventions have acquired a separate status in the art due to their recognized divergent subject matter, restriction for examination purposes as indicated is proper.


5. It is noted that claims 3 and 4 are in an improper multiple dependent format and must be corrected before examination should Group I be elected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emily Chimiak whose telephone number is (571)272-6486. The examiner can normally be reached on Monday-Friday 8:30-5:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571)272-6486. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


EAC


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GROUP 1300